

Message Text

PAGE 01 SAN JO 03901 02 OF 02 030104Z

61

ACTION SS-30

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /031 W

----- 019820

O 030025Z NOV 73

FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC IMMEDIATE 5452

C O N F I D E N T I A L SECTION 2 OF 2 SAN JOSE 3901

EXDIS

7. THE EMBASSY APEALED THE DECISION TO THE HIGHER COURT ON JULY 12. IN BOTH THIS APPEAL AND THE ONE MADE JUNE 27, COMPREHENSIVE, AND WE BELIEVE COGENT, ARGUMENTS WERE PRESENTED ON PRECISELY THESE POINTS AND REFERENCE IS MADE TO THE BRIEFS. A SUPPLEMENTARY BRIEF WAS PRESENTED ON JULY 20 ANSWERING PERIPHERAL ARGUMENTS BY VESCO'S LAWYERS.

8. ON JULY 23, THE SEGUNDA SALA RULED AGAINST US, ENDING THE PROCESS. THE DECISION RULED THAT THE CASE WAS NOT EXTRADITABLE BECAUSE IT DEALT WITH ATTEMPTED FRAUD AND THIS WAS NOT LISTED IN ARTICLE 2 OF THE TREATY; THE DECISION EMPHASIZED THAT THE ONLY ATTEMPTED CRIME COVERED IS MURDER. IT ALSO INSISTED THAT EXTRADITION WAS POSSIBLE ONLY UNDER THE PRECISE TERMS OF THE TREATY, THEREBY REJECTING OUR ARGUMENTS THAT ATTEMPTED FRAUD WAS EXTRADITABLE UNDER COSTA RICAN LAW AND SHOULD BE EXTRADITABLE UNDER THE TREATY, AS WELL AS BY INTERPRETATION AND COURTESY IF IT WAS NOT EXPRESSLY PROHIBITED. THE COURT DID ACCEPT OUR ARGUMENTS, HOWEVER, THAT THE USE OF CABLES TO COMMIT FRAUD WAS EXTRADITABLE THEREBY OVERRULING THE FIRST PENAL JUDGE. THE DECISION STATED. "FRAUD COMMITTED BY MEANS OF CABLES IS INCLUDED IN THE TREATY
CONFIDENTIAL

PAGE 02 SAN JO 03901 02 OF 02 030104Z

AND SANCTIONED UNDER COSTA RICAN LAW. IN BOTH THE TREATY AND THE LAW, THE REFERENCE IS TO FRAUD IN ITS GENERIC SENSE, COVERING AS ALCONSEQUENCE WHATEVER MEANS ARE USED

TO REALIZE IT, WHETHER IT IS USE OF THE TELEGRAPH, RADIO OR TELEVISION, ETC. THE POINT TO ANALYZE IS WHETHER THE ATTEMPT TO COMMIT THIS CRIME (FRAUD) AFFORDS A BASIS FOR AUTHORIZING EXTRADITION, UNDER THE TREATY".

9. IT MIGHT BE USEFUL TO POINT OUT OTHER QUESTIONS WHICH THE FIRST PENAL JUDGE NOTED BUT DID NOT EXAMINE. HE STATED THAT SINCE ENOUGH MATERIAL WAS AVAILABLE TO REACH A DECISION, IT WAS UNNECESSARY TO CONSIDER ALSO WHETHER THE APPLICABLE PUNISHMENT IS SPECIFIED, WHETHER THE STATUTE OF LIMITATIONS HAS EXPIRED, WHETHER VESCO WAS OR WAS NOT IN COSTA RICA, OR TO EXAMINE THE EVIDENCE OF PROBABLE GUILT ON WHICH THE CHARGE IS BASED.

10. COPIES OF THE FOLLOWING DOCUMENTS WERE TRANSMITTED TO ARA/CEN AND L/M/SCA, AND WE ASSUME ARE IN HAND: EMBASSY'S JUNE 7 NOTE AND ORIGINAL SWORN COMPLAINT; OUR APPEAL TO HIGHER COURT ON ARREST ORDER; JUNE 27 APPEAL TO FIRST PENAL JUDGE ON MERITS; SUPPLEMENTARY BRIEF TO HIGHER COURT OF JULY 20; AND THE HIGHER COURT'S FINAL DECISION OF JULY 23.

11. WE ARE POUCHING OTHER COURT DECISIONS AND BRIEFS WHICH WE APPARENTLY DID NOT SUBMIT EARLIER.
VAKY

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: Z
Capture Date: 11 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXTRADITION, COURTS
Control Number: n/a
Copy: SINGLE
Draft Date: 03 NOV 1973
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973SANJO003901
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: P750020-1779
From: SAN JOSE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19731166/abqccehvp.tel
Line Count: 87
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ACTION SS
Original Classification: CONFIDENTIAL
Original Handling Restrictions: EXDIS ONLY
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: EXDIS ONLY
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags: ANOMALY
Review Date: 17 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <17-Jan-2002 by martinjw>; APPROVED <11 FEB 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: PFOR, PGOV, US, CS, (VESCO)
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005